

REMARKS

Status of the Claims

Claims 1 and 3-28 are pending in the present application. Claim 1 has been amended to incorporate subject matter originally recited in Claim 2 (which has been canceled), and Claims 3, 4, and 5 have been amended to change their dependency, in accord with the cancellation of Claim 2. As described in greater detail below, the amendment of Claim 1 should enable Claims 1-16 to be examined along with the elected claims (i.e., Claims 21-28) of Invention II.

Restriction Requirement and Election

In a Restriction, the Examiner asserts that the pending claims are directed to two patentably distinct inventions. The Examiner indicates that a first invention, directed to Claims 1-20, is drawn to apparatus including a collection surface and a detector, and that a second invention, directed to Claims 21-28, is drawn to a method for detecting particles on a regenerable surface. The Examiner further notes that the inventions are distinct because the apparatus of Invention I can be used to perform a method that does not require regeneration of the collection surface, as required in the method of Invention II.

Applicants hereby affirmatively elect the claims of Invention II (i.e., Claims 21-28), subject to applicants right to file a divisional application directed to any non-elected invention.

Summary of Telephone Interview

On January 9, 2005, applicants' current attorney (Michael King, Reg. No. 44,832) contacted Examiner Douglas by telephone to discuss the restriction. (A document granting a Power of Attorney in this case to Michael King and revoking a previous Power of Attorney will be submitted in the near future.) During the telephone interview, applicants' attorney indicated that the restriction appeared to be based on the recitation by some of the independent claims a regenerative collection surface, while other independent claims do not recite such an element. Applicants' attorney pointed out that independent apparatus Claims 1 and 17 did not recite the element of a regenerative collection surface, while independent apparatus Claim 8 and independent method Claims 21 and 25 each recite a regenerative collection surface. The Examiner indicated that she would reconsider whether independent claims (such as Claim 8) including the common element of a regenerative collection surface could be considered as a single patentably distinct invention.

Applicants' attorney further suggested amending Claim 1 to recite a regenerative collection surface, such that a first invention could be considered to be directed to apparatus including a collection surface that is not required to be regenerable, which would encompass Claims 17-20, and a second invention could be

1 considered to be directed to method and apparatus for using a collection device having a regenerative
2 collection surface, which would encompass Claims 1-16 and Claims 21-28 (i.e., thus including independent
3 Claims 1, 8, and 21). The Examiner indicated that the proposed amendment appeared reasonable; however,
4 she wanted to discuss the issue with her supervisor before agreeing to consider such an amendment. The
5 Examiner spoke with her supervisor, and promptly called back to indicate that if such an amendment were
6 submitted, the Examiner would reconsider the restriction in light of the amendment. The Examiner further
7 indicated that if the amendment resulted in a modification of the restriction, that the Examiner would contact
8 applicants' attorney by telephone to enable applicants' attorney to make a new election.

9 Applicants would like to thank the Examiner for her willingness to discuss the above issues by
10 telephone, and for her prompt response.

11 Applicants' Request for Claims 1-16 to be Examined with Claims 21-28 of Invention II

12 Independent Claims 1 (as amended) and Claim 8 are each directed to apparatus for collecting
13 particles comprising a regenerable collection surface. Independent Claims 21 and 25 are each directed to a
14 method for collecting particles, comprising the steps of using a regenerable collection surface to collect
15 particles, and then regenerating the collecting surface. These claims are related as process and apparatus for
16 its practice. Significantly, because Claims 1, 8, 21, and 25 each include the element of a regenerable
17 collection surface, it cannot reasonably be shown that either: (1) the process as claimed can be practiced by
18 another materially different apparatus (a regenerable collection surface *is* required); or, (2) the apparatus as
19 claimed can be used to practice another and materially different process (the function of a regenerable
20 surface is directly related to the step of regenerating the surface after collecting particles). Accordingly, it
21 would appear that Claims 1-16 should be considered to be encompassed in Invention II, and should
22 therefore be examined along with Claims 21-28.

23 Respectfully submitted,

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